

Union Calendar No. 374

103D CONGRESS
2D SESSION

H. R. 4757

[Report No. 103-685]

A BILL

To provide for the settlement of the claims of the
Confederated Tribes of the Colville Reservation
concerning their contribution to the production of
hydropower by the Grand Coulee Dam, and for
other purposes.

AUGUST 8, 1994

Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

JULY 14, 1994

Mr. MILLER of California (for himself, Mr. RICHARDSON, Mr. INSLEE, Mr. DICKS, and Ms. DUNN) introduced the following bill; which was referred to the Committee on Natural Resources

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A BILL

To provide for the settlement of the claims of the Confederated Tribes of the Colville Reservation concerning their contribution to the production of hydropower by the Grand Coulee Dam, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Confederated Tribes
3 of the Colville Reservation Grand Coulee Dam Settlement
4 Act”.

5 **SEC. 2. DEFINITIONS.**

6 For purposes of this Act:

7 (1) The term “Administrator” means the Ad-
8 ministrator of the Bonneville Power Administration.

9 (2) The term “Bonneville Power Administra-
10 tion” means the Bonneville Power Administration of
11 the Department of Energy or any successor Agency,
12 Corporation, or entity that markets power produced
13 at the Dam.

14 (3) The term “Dam” means the Grand Coulee
15 Dam operated by the Bureau of Reclamation of the
16 Department of the Interior, the power from which is
17 marketed by the Bonneville Power Administration of
18 the Department of Energy.

19 (4) The term “Settlement Agreement” means
20 the Settlement Agreement entered into between the
21 United States and the Tribe, signed by the United
22 States on April 21, 1994, and by the Tribe on April
23 16, 1994, to settle the claims of the Tribe in Docket
24 181–D of the Indian Claims Commission, which
25 docket has been transferred to the United States
26 Court of Federal Claims.

1 (5) The term “Tribe” means the Confederated
2 Tribes of the Colville Reservation, a federally recog-
3 nized Indian tribe.

4 **SEC. 3. FINDINGS AND PURPOSES.**

5 (a) FINDINGS.—The Congress finds the following:

6 (1) There is pending before the United States
7 Court of Federal Claims, a suit by the Confederated
8 Tribes of the Colville Reservation against the United
9 States, in which the Tribe seeks to recover damages
10 under the “Fair and Honorable Dealings” clause of
11 the Indian Claims Commission Act, (Act of August
12 13, 1946, 60 Stat. 1049), and in which, although
13 the matter is in dispute, the potential liability of the
14 United States is substantial.

15 (2) The claim alleges that the United States
16 has since the construction of Grand Coulee Dam
17 used Colville Reservation land in the generation of
18 electric power, and will continue to use such reserva-
19 tion land for as long as Grand Coulee Dam produces
20 power; and that the United States has promised and
21 undertaken to pay the Tribe for such use and has
22 not done so.

23 (3) The United States, after years of litigation,
24 has negotiated a Settlement Agreement with the
25 Tribe, signed by the Department of Justice, the

1 Bonneville Power Administration and the Depart-
2 ment of the Interior. The Settlement Agreement is
3 contingent on the enactment of the enabling legisla-
4 tion.

5 (4) The Settlement Agreement, approved in this
6 Act, will provide mutually agreeable compensation
7 for the past use of reservation land in connection
8 with the generation of electric power at Grand Cou-
9 lee Dam, and will establish a method to ensure that
10 the Tribe will be compensated for the future use of
11 reservation land in the generation of electric power
12 at Grand Coulee Dam, and will settle the claims of
13 the Tribe against the United States brought under
14 the Indian Claims Commission Act.

15 (b) PURPOSES.—It is the purpose of this Act—

16 (1) to approve and ratify the Settlement Agree-
17 ment entered into by the United States and the
18 Tribe; and

19 (2) to direct the Bonneville Power Administra-
20 tion to carry out its obligations under the Settlement
21 Agreement.

22 **SEC. 4. APPROVAL, RATIFICATION, AND IMPLEMENTATION**
23 **OF SETTLEMENT AGREEMENT.**

24 (a) APPROVAL AND RATIFICATION.—The Settlement
25 Agreement is approved and ratified.

1 (b) ANNUAL PAYMENTS.—The Bonneville Power Ad-
2 ministration shall make annual payments to the Tribe as
3 set forth in the Settlement Agreement and shall carry out
4 its other obligations under the Settlement Agreement.

5 (c) SETTLEMENT.—Consistent with the negotiated
6 terms of the Settlement Agreement, the United States
7 shall join in the motion that the Tribe has agreed to file
8 in *Confederated Tribes v. United States*, Indian Claims
9 Commission Docket 181–D, for the entry of a compromise
10 final judgment in the amount of \$53,000,000. The judg-
11 ment shall be paid from funds appropriated pursuant to
12 section 1304 of title 31, United States Code and is not
13 reimbursable by the Bonneville Power Administration.

14 **SEC. 5. DISTRIBUTION OF THE SETTLEMENT FUNDS.**

15 (a) LUMP-SUM PAYMENT.—The judgment of
16 \$53,000,000, when paid, shall be deposited in the Treas-
17 ury of the United States and the principal amount and
18 interest on the judgment, shall be credited to the account
19 of the Tribe. These funds may be advanced or expended
20 for any purpose by the tribal governing body of the Con-
21 federated Tribes of the Colville Reservation, pursuant to
22 a distribution plan developed by the Tribe and approved
23 by the Secretary of the Interior pursuant to section 3 of
24 Public Law 93–134 (25 U.S.C. 1403): *Provided*, That any
25 payment to a minor under the distribution plan shall be

1 held in trust by the United States for the minor until the
2 minor reaches the age of 18, or until the minor's class
3 is scheduled to graduate from high school, whichever is
4 later: *Provided further*, That emergency use of trust funds
5 may be authorized for the benefit of the minor pursuant
6 to regulations of the Bureau of Indian Affairs.

7 (b) ANNUAL PAYMENTS.—In addition to the lump-
8 sum payment, annual payments shall be made directly to
9 the Tribe in accordance with the Settlement Agreement,
10 and may be used in the same manner as any other income
11 received by the tribe from the lease or sale of natural re-
12 sources.

13 **SEC. 6. REPAYMENT CREDIT.**

14 Beginning with fiscal year 2000 and continuing for
15 so long as annual payments are made under this Act, the
16 Administrator shall deduct from the interest payable to
17 the Secretary of the Treasury from net proceeds as de-
18 fined in section 13 of the Federal Columbia River Trans-
19 mission System Act, an amount equal to 26 percent of
20 the payment made to the Tribe for the prior fiscal year.
21 Each deduction made under this section shall be a credit
22 to the interest payments otherwise payable by the Admin-
23 istrator to the Secretary of the Treasury during the fiscal
24 year in which the deduction is made, and shall be allocated
25 pro rata to all interest payments on debt associated with

1 the generation function of the Federal Columbia River
2 Power System that are due during that fiscal year; except
3 that, if the deduction in any fiscal year is greater than
4 the interest due on debt associated with the generation
5 function for that fiscal year, then the amount of the de-
6 duction that exceeds the interest due on debt associated
7 with the generation function shall be allocated pro rata
8 to all other interest payments due during that fiscal year.

9 **SEC. 7. MISCELLANEOUS PROVISIONS.**

10 (a) LIENS AND FORFEITURES, ETC.—Funds paid or
11 deposited to the credit of the Tribe pursuant to the Settle-
12 ment Agreement or this Act, the interest or investment
13 income earned or received on those funds, and any pay-
14 ment authorized by the Tribe or the Secretary of the Inte-
15 rior to be made from those funds to tribal members, and
16 the interest or investment income on those payments
17 earned or received while the payments are held in trust
18 for the member, are not subject to levy, execution, forfeit-
19 ure, garnishment, lien, encumbrance, seizure, or Federal,
20 State or local taxation.

21 (b) ELIGIBILITY FOR FEDERAL AND FEDERALLY
22 FUNDED PROGRAMS.—Funds paid or deposited to the
23 credit of the Tribe pursuant to the Settlement Agreement
24 or this Act, the interest or investment income earned or
25 received on such funds, and any payment authorized by

1 the Tribe or the Secretary of the Interior to be made from
2 those funds to tribal members, and the interest or invest-
3 ment income on those payments earned or received while
4 the payments are held in trust for the member, may not
5 be treated as income or resources nor otherwise utilized
6 as the basis for denying or reducing the financial assist-
7 ance or other benefit to which the Tribe, a tribal member,
8 or household would otherwise be entitled under the Social
9 Security Act or any Federal or federally assisted program.

10 (c) TRUST RESPONSIBILITY.—This Act and the Set-
11 tlement Agreement do not affect the trust responsibility
12 of the United States and its agencies to the Tribe and
13 the members of the Tribe.